fendant that she had a friend who needed help and it was arranged that the two girls would go to Milwaukee.

On April 19, 1963, Patricia Hanley and Roberta Dahl met in the early evening, had dinner, and left Minneapolis by train at approximately 7:30 p. m., arriving in Milwaukee at approximately 3:30 a. m. on April 20, 1963. They proceeded to the Schroeder Hotel, registered and went to bed. Patricia Hanley had with her approximately $500 in cash. On the morning of April 20, 1963, the girls proceeded to the defendant's office, arriving there at approximately 8:00 a. m. The defendant was there and was introduced to Patricia Hanley. A conversation between Patricia and the defendant in the presence of Roberta Dahl ensued regarding how long Patricia had been pregnant. Defendant then requested the money and Paticia gave him $400.

Defendant then advised that he would perform a "curettment, scraping of the uterus and take the fetus by that means." The defendant and Patricia then entered an inner room. Patricia removed all of her closing except a half slip and, pursuant to the defendant's instruction, lay on her back upon a table, inserted her feet in stirrups to elevate her legs which were then spread about two feet apart. Defendant then inserted some instruments into her body and she experienced internal pain and a pulling sensation in the vagina. The defendant mentioned "* * * he was having some trouble, that he couldn't get parts of it out." The operation took approximately 45 minutes, after which Patricia vomited and experienced some dizziness.

Patricia then dressed and rejoined Miss Dahl. The defendant gave her sixteen to eighteen pills, ergot tablets, and advised her they would work to stop any bleeding she might

have. The defendant gave the girls instructions as to bus connections from his office to the Schroeder Hotel and the girls left his office. They returned to the Schoeder Hotel, arriving there at approximately 9:30 a. m. They rested until approximately 11:00 a. m., checked out of the hotel, and returned to Minneapolis by train.

When the supply of ergot tablets ran out four or five days after Patricia Hanley left Milwaukee, she began to experience some bleeding. On May 5, 1963, and again on May 15, 1963, she hemorrhaged. On May 15, 1963, she telephoned the defendant from the Dahl home and advised him of her condition. He told her to obtain some more ergot and to consult her family physician. She was reluctant. However, he indicated there was nothing else he could do for her. On that day Patricia Hanley was admitted to the Minneapolis General Hospital where she remained through May 17, 1963. The treating physician, Dr. Donald Johnson, diagnosed her condition as an incomplete abortion and performed a uterine curettage. Dr. Johnson's clinical records reflected that Patricia's last menstrual period was February 26, 1963, that she missed her menses in March and ten days before May 15, 1963, she began bleeding which persisted intermittently to May 15, 1963. Dr. Johnson removed several fragments of placental tissue when he performed the uterine curettage. His indications for operation reflected that Miss Hanley had signs and symptoms of pregnancy and there apparently were attempts of criminal interference some four weeks before May 15, 1963, with a metal instrument of some kind.

When Patricia Hanley was discharged from the hospital on May 17, 1963, she was taken to the Minneapolis

Police Department and subsequently she and Roberta Dahl detailed their involvement with the defendant. Milwaukee authorities were advised and on June 6, 1963, Mr. Ray Demski, an investigator in the Milwaukee County District Attorney's Office, called upon the defendant in Milwaukee and inquired regarding the abortion complaints received from both Patricia Hanley and Roberta Dahl.

At that time the defendant stated that the two girls had come to his office in the middle of April 1963 and one of them was hemorrhaging; that he examined her and discovered a heavy blood clot; that he removed the blood clot and advised her to go to the hospital for treatment; that she advised him she was flying home and would see a doctor in Minneapolis; that he asked her the cause of the miscarriage and she indicated her boy friend had given her some quinine pills; that she didn't want to cause any trouble; that he gave her some ergot pills to stop the bleeding until she got home to visit a doctor and that about two weeks after that she had called him long distance stating she had taken his advice, gone to a hospital, and was then feeling fine.

On the following day, June 7, 1963, Patricia Hanley in Minneapolis received a long distance telephone call from Milwaukee from Attorney Donald Jacobson. Mr. Jacobson advised Patricia that he represented the defendant and asked her to meet him, Attorney Jacobson, at the Milwaukee Road depot in Minneapolis the following Sunday, indicating that it would be to Miss Hanley's advantage. Patricia agreed, and on the following Sunday, in the company of Roberta Dahl, she met with Mr. Jacobson at the depot. They went to the dining room and had breakfast. Although

the defendant accompanied Mr. Jacobson to Minneapolis, he remained outside the depot and did not converse with either Miss Hanley or Miss Dahl.

Mr. Jacobson asked Patricia if she would write a letter to the Milwaukee officials denying the allegations made to the Minneapolis Police Department, indicating that such a course of action would result in the authorities dropping the charges and avoid embarrassment for all. Patricia agreed, Mr. Jacobson purchased a tablet of paper and she wrote a letter dictated by Mr. Jacobson, which was then placed in an evelope, addressed, stamped and mailed to Mr. Demski, the investigator in Milwaukee. Mr. Jacobson then returned $400 to Patricia advising her that the defendant did not have to give the money back. Patricia inquired regarding the hospital bill for her treatment of May 15-17 in the amount of $72.00. Mr. Jacobson indicated that he would discuss that matter with the defendant and left. Subsequently Attorney Jacobson mailed a check in the amount of $72.00 to Roberta Dahl for Patricia Hanley's hospital bill.

On July 19, 1963, the defendant made a statement which was stenographically transcribed before Hugh R. O'Connell, the then Assistant District Attorney of Milwaukee County, Michael Curley, an investigator, and Attorneys Clarence Jacobson and Donald Jacobson. In that statement the defendant indicated that he knew Patricia Hanley; that he had met her in the month of May 1963; that he did not know how she initially made contact with him; that she and another girl were brought to his office by a third party; that she advised him of her name and that she was staying at the Schroeder Hotel; that she was

having pains and spotting; that she had missed a period and had taken quinine pills for a week; that he examined her and found blood clots and oozing of blood from the uterus and noticed that a piece of placenta was protruding from the cervix of the uterus; that he advised Miss Hanley that she was miscarrying and that she should go to a hospital in that he did not perform curettments or surgery of any kind and advised her to go to a hospital right away; that she asked him how much it would cost and he said between $500 and $600 and that she said, "I have only $400"; that he said, "I am afraid it will cost you that much"; that she said that she was going to take a plane to Minneapolis and get more money and would be back; that she left the $400 with him; that he didn't hear from her until about a week or two after that; that he gave her some ergot tablets so that she shouldn't hemorrhage; that a man had brought the two girls to him; that he did not know how they happened to come to see him; that he went with Attorney Jacobson to Minneapolis; that he did not see the girls at the depot; that he had told Mr. Jacobson that he felt he wasn't entitled to the money, the $400, and that someone had called him from Minneapolis, he thought it was Miss Hanley's mother, who advised him that "they had an agreement" with him and in case he didn't complete it, he should return the money; that he would have charged Miss Hanley a fee for services, but under the circumstances he didn't want to get into trouble; that afterwards Attorney Jacobson told him that Miss Hanley had asked for him to pay her hospital expenses and he did in order to avoid trouble.

In July of 1963 Roberta Dahl, then married, required hospitalization in Minneapolis for four days. In Septem-

ber of 1963 she sent a letter to Attorney Jacobson indicating that as a result of the abortion performed on her by the defendant in March of 1963, she had incurred damages in the amount of $2,300, requesting the payment of such a sum from the defendant.

The defendant testified on his own behalf. In brief, he denied performing the operation on Miss Hanley or the operation on Miss Dahl. He indicated that he had known Miss Dahl's mother, Mrs. Ann Dahl, since 1961, and since that time he had treated many patients sent to him by her for social diseases. He admitted that he had seen Roberta Dahl in March of 1963. However, he indicated that Mrs. Dahl brought her daughter to him and that Roberta had already miscarried; that she was experiencing difficulty since the miscarriage; that he examined her and discovered an infection which he treated, charging Mrs. Dahl $5.00. Further, he admitted that Roberta Dahl and Patricia Hanley had come to his office in April of 1963 in a taxi; that Roberta Dahl had introduced him to Patricia Hanley; that Patricia Hanley advised him she was pregnant and had been bleeding intermittently for about six days; that he examined her and noticed blood clots; that he removed the blood clots and did a bimanual examination of her uterus; that after examining her, he diagnosed her condition as an incomplete miscarriage; that he advised Patricia Hanley to go to a hospital and have a curettment because he did not perform surgery, indicating that most of the fetus and the placental tissue was already gone but that there was evidently some left in the womb; that she asked him to make the necessary arrangements and left the $400 for that purpose; that he indicated it would cost more than $400, probably $600 to $700; that

Miss Hanley indicated she would go back to Minneapolis, obtain the extra money, and return the next day; that the two girls left and the next thing he heard in the matter was in June when Mr. Demski came to his office; that Mr. Demski had suggested that the defendant obtain a document from Miss Hanley exonerating him; that pursuant to that suggestion he retained Attorney Donald Jacobson and accompanied him to Minneapolis.

Attorney Jacobson testified that he was retained by the defendant in June 1963 and advised by the defendant that Mr. Ray Demski, an investigator for the Milwaukee District Attorney's office, had contacted the defendant and indicated it would be desirable for the defendant to obtain a statement from Patricia Hanley. After discussing the matter with the defendant, Attorney Jacobson telephoned Patricia in Minneapolis and arranged a meeting for the following Sunday morning in the train depot in Minneapolis. He and the defendant proceeded to Minneapolis. However, only he met with Patricia Hanley and Roberta Dahl. The defendant traveled along merely for companionship and intentionally refrained from conferring with the girls. Attorney Jacobson discussed this matter with the girls and they advised him of the defendant's innocence of any illegal actions. He then inquired of Patricia Hanley to document the exoneration, she agreed and he purchased a pad of paper. The facts as related by the girls were summarized by Attorney Jacobson and returned to a written statement by Patricia. The statement was directed to Mr. Demski in Milwaukee and mailed. He then returned $400 to Patricia and she inquired regarding possible reimbursement of hospital expenses in the amount of $72.00. Attorney Jacobson advised that he would inquire of the de-

fendant regarding the possibility of repayment and departed, returning with the defendant to Milwaukee.

When advised regarding the $72.00 hospital expense incurred by Patricia Hanley, the defendant authorized Attorney Jacobson to forward the money to her. He then mailed a check in that amount to Roberta Dahl for delivery to Patricia Hanley. Some weeks later Mrs. Ann Dahl telephoned Attorney Jacobson advising him that she and her daughter Roberta were desirous of obtaining legal representation. Attorney Jacobson discussed that matter with the defendant and obtained authorization to retain legal counsel for Roberta Dahl at the defendant's expense. He then proceeded to Minneapolis, met with Mrs. Dahl and Roberta and retained Attorney Ronald Meshbecher of Minneapolis to represent Roberta, paying a retainer fee of $250 with the promise to pay an additional $250 "if certain work was necessary * * * or * * * performed."

Two physicians testified on the defendant's behalf, both concluding in response to hypothetical questions predicated upon the defendant's version of the events that Patricia Hanley had miscarried before she appeared in the defendant's office on April 20, 1963, and he did not cause the miscarriage.

Testimony and depositions were presented by the defendant indicating that Roberta Dahl, in her letter of September 1963 to Attorney Jacobson, had not been truthful.

In rebuttal, Mrs. Ann Dahl, the mother of Roberta Dahl, testified that she did not know nor had ever heard of the defendant prior to May of 1963; that she had never taken her daughter to the defendant for professional treatment; that she had never referred anyone to the defend-

ant for treatment of social diseases; and that she did not make arrangements for treatment by him of Patricia Hanley in April 1963.

In surrebuttal Attorney Jacobson testified that when he had conferred with Mrs. Ann Dahl and Roberta Dahl in Minneapolis on the occasion of retaining Attorney Meshbecher to represent Roberta that Mrs. Dahl had advised him that she had known the defendant in the past and that he had treated her; that she had telephoned the defendant and made the arrangements for him to treat Patricia Hanley in April 1963.

REASONS FOR NOT GRANTING WRIT

The keystone requirement to be met before the jurisdiction of the United States Supreme Court may be invoked via a grant of the writ of certiorari in cases from state courts is the presentation of a substantial federal question. A title, right, privilege or immunity of federal constitutional dimension must be asserted as a condition precedent to consideration.

28 U. S. C. § 1257 (3);

Rice v. Sioux City Cemetery, (1954) 349 U. S. 70, 99 L. E. 897, 75 S. C. 614;

Williams v. Kaiser, (1945) 323 U. S. 471, 89 L. E. 398, 65 S. C. 363;

Tomkins v. Missouri, (1945) 323 U. S. 485, 89 L. E. 407, 65 S. C. 370;

Reynolds v. Cochran, (1961) 365 U. S. 525, 5 L. E. (2d) 754, 81 S. C. 723.

The issue brought on appeal to the Supreme Court of Wisconsin by the defendant-petitioner was a challenge to the legal sufficiency of the evidence adduced against him at his trial. A resolution of the issue by the Wisconsin Supreme Court (Appendix A of Brief of the Petitioner) involved a review of the evidence and the interpretation and application of extant state law. No resort to federal authority was necessary and no discussion of any question of federal dimension was had in the opinion. It may be recited as a principle of general application that challenges to the sufficiency of the evidence and the credibility of the witnesses in state criminal actions are issues uniquely resolved by the application of state law and beyond the pale of federal analysis, at least under any construction of the Fourteenth Amendment due process clause had heretofore. Traditionally the United States Supreme Court does not grant a writ of certiorari to review evidence, *United States v. Johnson,* (1925) 268 U. S. 220, 69 L. E. 925, 45 S. C. 496, especially where, as in the case at bar, the trial court has been sustained on appeal, *Graver Mfg. Co. v. Linde Co.,* (1949) 336 U. S. 271, 93 L. E. 672, 69 S. C. 535. There appears no reason for a departure from that traditional position in the instant case.

CONCLUSION

The petitioner, having failed to raise a question of federal constitutional magnitude and the opinion of the Wisconsin Supreme Court not containing any substantial federal question, it is respectfully submitted that a writ of certiorari should not be granted.

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